

By: Giddings

H.B. No. 2616

A BILL TO BE ENTITLED

AN ACT

relating to the discipline and behavior management of a student enrolled in a grade level below grade four at a school district or open-enrollment charter school.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E or E-1, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Sections [Section] 37.0021, 37.0182, 37.0183, and 37.023, including the staff development training required under Section 21.451(d)(4);

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, F, G, and J, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct;

(N) intensive programs of instruction under Section 28.0213; and

(O) the right of a school employee to report a crime, as provided by Section 37.148.

SECTION 2. Section 21.451(d), Education Code, is amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution;

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; and

(D) preventing, identifying, responding to, and reporting incidents of bullying;

(2) subject to Subsection (e) and to Section 21.3541 and rules adopted under that section, must include training that is evidence-based [~~based on scientifically based research~~], as defined by Section 8101, Every Student Succeeds Act [~~9101, No Child Left Behind Act of 2001~~] (20 U.S.C. Section 7801), and that:

(A) relates to instruction of students with disabilities; and

(B) is designed for educators who work primarily outside the area of special education; [~~and~~]

(3) must include suicide prevention training that must be provided:

(A) on an annual basis, as part of a new employee orientation, to all new school district and open-enrollment charter school educators; and

(B) to existing school district and open-enrollment charter school educators on a schedule adopted by the agency by rule; and

(4) notwithstanding Subdivision (1)(C), must include for educators who work with students enrolled in a grade level below grade four training on the positive behavior and early detection prevention programs under Section 37.0183.

SECTION 3. Section 37.001(a), Education Code, as amended by

1 Chapters 487 (S.B. 1541) and 1409 (S.B. 1114), Acts of the 83rd
2 Legislature, Regular Session, 2013, is reenacted and amended to
3 read as follows:

4 (a) The board of trustees of an independent school district
5 shall, with the advice of its district-level committee established
6 under Subchapter F, Chapter 11, adopt a student code of conduct for
7 the district. The student code of conduct must be posted and
8 prominently displayed at each school campus or made available for
9 review at the office of the campus principal. In addition to
10 establishing standards for student conduct, the student code of
11 conduct must:

12 (1) specify the circumstances, in accordance with this
13 subchapter, under which a student may be removed from a classroom,
14 campus, disciplinary alternative education program, or vehicle
15 owned or operated by the district;

16 (2) specify conditions that authorize or require a
17 principal or other appropriate administrator to transfer a student
18 to a disciplinary alternative education program;

19 (3) outline conditions under which a student may be
20 suspended as provided by Section 37.005 or expelled as provided by
21 Section 37.007;

22 (4) specify that consideration will be given, as a
23 factor in each decision concerning suspension, removal to a
24 disciplinary alternative education program, expulsion, or
25 placement in a juvenile justice alternative education program,
26 regardless of whether the decision concerns a mandatory or
27 discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) state that a student enrolled in a grade level below grade four may not be suspended except as authorized by this subchapter;

(6) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(7) ~~[(6)]~~ address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(8) ~~[(7)]~~ prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(9) ~~[(8)]~~ provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;

(B) disciplining students, including disciplining students enrolled in a grade level below grade four

1 using behavior management techniques that comply with the minimum
2 standards established under Section 37.0182 as an alternative to
3 suspension; and

4 (C) preventing and intervening in student
5 discipline problems, including bullying, harassment, and making
6 hit lists.

7 SECTION 4. Section 37.005, Education Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) A student enrolled in a grade level below grade four may
10 not be suspended.

11 SECTION 5. Subchapter A, Chapter 37, Education Code, is
12 amended by adding Sections 37.0182, 37.0183, and 37.023 to read as
13 follows:

14 Sec. 37.0182. APPROPRIATE BEHAVIOR MANAGEMENT TECHNIQUES
15 FOR CERTAIN STUDENTS. (a) The commissioner by rule shall establish
16 minimum standards for behavior management techniques that may be
17 used for a student enrolled in a grade level below grade four as an
18 alternative to suspending the student under Section 37.005. The
19 standards must require a behavior management technique to be a
20 positive behavior support that is age appropriate and research
21 based.

22 (b) The agency shall develop a database of positive behavior
23 support systems that satisfy the standards established under
24 Subsection (a) and make the database available to each school
25 district and open-enrollment charter school.

26 Sec. 37.0183. POSITIVE BEHAVIOR AND EARLY DETECTION AND
27 PREVENTION PROGRAMS FOR CERTAIN STUDENTS. (a) Each school district

1 shall develop and implement for students enrolled in a grade level
2 below grade four a positive behavior program that:

3 (1) is age appropriate and research based;
4 (2) models positive behaviors;
5 (3) promotes a positive school climate;
6 (4) uses only behavior management techniques that
7 comply with the minimum standards established under Section
8 37.0182;

9 (5) does not rely on the use of suspensions or
10 placements in a disciplinary alternative education program as a
11 means of managing problematic behavior; and

12 (6) includes behavior management strategies such as
13 positive behavioral interventions and supports, trauma-informed
14 practices, social and emotional learning, referral services, and
15 restorative practices.

16 (b) Each school district shall develop and implement an
17 early detection and prevention program to address the needs of
18 students enrolled in a grade level below grade four who are
19 experiencing behavioral or disciplinary challenges. The program
20 must be designed to provide appropriate evaluations, services, and
21 supports to the student and the student's family.

22 (c) In developing a program under Subsection (a) or (b), a
23 school district may request assistance from a regional education
24 service center.

25 (d) Each school district shall:

26 (1) submit to the agency for review written procedures
27 detailing the implementation of each program under this section;

1 (2) after agency review of the procedures under
2 Subdivision (1), make the procedures publicly available; and

3 (3) train educators and other student support staff as
4 necessary to implement the programs as required by this section.

5 (e) The commissioner may adopt rules as necessary to
6 implement this section.

7 Sec. 37.023. SANCTIONS FOR CERTAIN VIOLATIONS. (a) The
8 commissioner shall sanction, in a manner determined appropriate by
9 the commissioner, a school district or open-enrollment charter
10 school that:

11 (1) permits a student enrolled in a grade level below
12 grade four to be suspended unless the suspension is authorized by
13 this subchapter; or

14 (2) fails to comply with a requirement under Section
15 37.0183.

16 (b) The commissioner may adopt rules as necessary to
17 implement this section.

18 SECTION 6. This Act applies beginning with the 2017-2018
19 school year.

20 SECTION 7. (a) Not later than September 1, 2017, each school
21 district and open-enrollment charter school shall submit to the
22 Texas Education Agency the procedures required under Section
23 37.0183, Education Code, as added by this Act.

24 (b) Not later than March 1, 2018, the Texas Education Agency
25 shall review the procedures submitted under Subsection (a) of this
26 section to determine initial compliance with the requirements under
27 Section 37.0183, Education Code, as added by this Act.

1 SECTION 8. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2017.